

22 MAY 1947

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22 MAY 1947

I N D E X
Of
EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1594	2630		Affidavit of ISONO, Yuso		22759
1598	2631		Affidavit of HAYASHI, Kaoru		22780
1598-B	2632		Affidavit of HAYASHI, Kaoru		22782
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1522	2635		Telegram: The U. S. Embassy's Report on the Changkufeng Incident, dated 11 August 1938		22825
1550	2636		Telegram: The U. S. Embassy's Report on the Changkufeng Incident, dated 5 August 1938 (the first paragraph only)		22839

Thursday, 22 May 1947

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

- - -

Appearances:

For the Tribunal, same as before with the
exception of: HONORABLE JUSTICE NORTHCORFT, Member
from New Zealand, not sitting.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

- - -

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

TANAKA

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in ses-
3 sion.

4 THE PRESIDENT: General Vasiliev.

5 GENERAL VASILIEV: Yesterday, the Presi-
6 dent expressed the wish for all these inscriptions
7 to check with all the inscriptions on the map
8 attached to the Khun Chun Treaty, which was later
9 translated into English. I respectfully draw the
10 attention of all members of the Tribunal to the
11 fact that all inscriptions are actually trans-
12 lated into English.

13 May I continue my cross-examination?

14 THE PRESENT: You may.

15 R Y U K I C H I T A N A K A, recalled as a witness
16 on behalf of the defense, resumed the stand
17 and testified through Japanese interpreters
18 as follows:

19 CROSS-EXAMINATION

20 BY GENERAL VASILIEV:

21 Q Mr. Witness, yesterday, when the adjourn-
22 ment was taken, when you were examining the map of
23 the Lake Khasan area, you confirmed that the boundary,
24 as shown on this map, passed along the crest of the
25 Changkufeng hill, which is to the west of the Lake

TANAKA

CROSS

1 Khasan area, and you said that you saw this map for
2 the first time here in this courtroom, is that
3 correct?

4 A Yes.

5 Q Then, the contention in your affidavit,
6 I quote: both hills were in Manchukuoan territory,
7 even according to the Manchukuoan Border Agreement,
8 is a misunderstanding because when you were draft-
9 ing your affidavit, you didn't see the map, and the
10 map shows otherwise, is not that so?

11 A No, this map was drawn up by the Soviet
12 side at the time of the Khun Chun Treaty. This is
13 the first time that I saw the map.

14 Q Which other more recent agreements are
15 there, do you know, which would describe the bound-
16 ary in this sector otherwise?

17 A All I know is that concerning the Khun
18 Chun Treaty, as I understand, is that after the
19 warfare at Changkufeng, it was agreed between both
20 sides, the Japanese side and the Soviet side, that
21 a status quo would be maintained.

22 Q Where did the boundary pass after the
23 Changkufeng Incident, along the back of the hills
24 or the crest of the hills?

25 A If my memory serves me correctly, the

TANAKA

CROSS

1 border line, after the Changkufeng hostilities, was
2 at the top of the hill -- was in Manchukuoan terri-
3 tory, but east of this hill about ten meters. I
4 believe that was where the boundary line was de-
5 cided -- about ten meters down the hill was the
6 boundary.

7 Q Just as it was shown in the Khun Chun
8 Agreement, on the map attached to the Khun Chun
9 Agreement, isn't that so?

10 A It is a little different.

11 Q Let us pass to other questions. When did
12 the Japanese troops begin to be concentrated in the
13 Khasan Lake area?

14 A When I arrived, I believe, I recall that
15 it was about the 14th of July. Before that time,
16 the 75th Regiment from Kainei and the Engineer Unit
17 from Kainei, I believe, were the first units to
18 arrive at this spot. That was about the 12th of
19 July.

20 THE PRESIDENT: He has answered.

21 Q That is two weeks prior to the time when
22 the action -- the actual large scale operations
23 started, is it true?
24

25 A Yes.

Q When did you receive the order to come with

TANAKA

GROSS

your regiment to the Khasan Lake area?

A It was the morning of the 13th of July.

Q Who gave you this order and who signed it?

A The commander of the 19th Division, Lieutenant General SUETAKA, Kamezo.

Q Do you know when earlier orders to other units, which arrived at the Khasan Lake area before you, were given?

A I believe it was around the 11th -- on the 11th. At that time, there was a change in command.

Q Can you tell me when this change in command was formally carried out according to directives from Tokyo and when actually the commanders -- one commander replaced another?

A If my memory is correct, I believe the change in commanders -- the order for the change of commanders was given on the 15th of July. The succeeding commander, NAKAMURA, arrived by plane -- it was after the 15th, I believe. It was on or about the 20th.

Q Maybe there was some mistake in translation. I was told in April that probably it was in July.

A July.

TANAKA

CROSS

1 Q According to whose order did the Japanese
2 forces start hostilities?

3 THE PRESIDENT: Major Furness.

4 THE MONITOR: The witness replied, under
5 the orders of the division commander.

6 Q What is the name of the division commander?

7 A The same person as I mentioned previously,
8 Lieutenant General SUETAKA, Kamezo.

9 Q Did you know that the commander of the
10 Korean Army, NAKAMURA, was displeased with the
11 military operations?

12 A Yes, I do.

13 Q And, what do you know about it, tell me.

14 A After the fighting, I was shown the tele-
15 gram which was received at the divisional head-
16 quarters on the first of August -- after the fight-
17 ing, I was shown the telegram at divisional head-
18 quarters which was received on the first of August
19 from the commander of the army, NAKAMURA.

20 Q Did you give any advice to NAKAMURA con-
21 cerning military operations and what attitude did
22 he take toward your advice?

23 A The first time I expressed -- I gave my
24 advice to the commander of the division -- it was
25 about noon on the 13th of August, I told him that

TANAKA

CROSS

1 since the objective of the fighting at Changkufeng
2 had been attained, would he not agree to the with-
3 drawal of the troops to the banks. However, this
4 advice was not taken into consideration.

5 Q Who was the first to open hostilities?
6 I am not referring to small ~~clashes~~, but to the
7 large scale operations. Who started them, the
8 Japanese or the Russians?

9 A I recall that the small scale fighting
10 began with the first shot fired by the Russians,
11 but an attack by one infantry regiment on Changku-
12 feng was undertaken by the Japanese Army.

13 Q So, the large scale operations on a com-
14 paratively wide front and with comparatively
15 strong forces participating were started by the
16 Japanese, was not it so?

17 A Yes. However, the origin of the fighting --
18 the first shots were fired by the Soviet side.

19 Q But, you did not witness the Russians
20 starting first the shooting, and you tell this
21 from words of other persons, are you not? You told
22 us that yesterday.

23 Q What was the strength of the artillery units
24 of the Japanese Army in the Khasan Lake area at the
25 time of the conflict?

TANAKA

CROSS

1 A At first, two cannons. From the morning
2 of the 31st, fourteen cannons -- it was increased
3 gradually, and at the time hostilities ended the
4 number totalled thirty seven cannons.

5 Q You speak about the active shooting cannons,
6 do you, or do you speak about the artillery forces
7 in general? They may not all have been in action;
8 I don't know.

9 A The cannons were all on the spot, and
10 naturally they were all used in the fighting. The
11 reason is, on the Soviet side, the Soviet side
12 possessed over 120 guns, and it was only natural
13 that the Japanese used all of their guns.

14 Q How many sets of ammunition rounds did you,
15 as commanding officer of the artillery regiment,
16 have, and did you use it all?

17 A The number of shells possessed by the
18 Japanese Army was very small. If more than one
19 thousand rounds in a day were fired, the ammunition
20 would run out. After the conclusion of the hostil-
21 ities, the number of rounds shot was investigated
22 and discovered to be about twelve thousand rounds
23 fired. This figure did not total -- was not even
24 as much as the Soviet forces fired in one day.
25

 Q Were these twelve thousand shells fired

TANAKA

CROSS

1 by only your regiment or by all artillery -- Japa-
2 nese artillery units?

3 A The entire artillery units, Japanese units,
4 were commanded by myself. Therefore, this was the
5 number fired by all artillery units on the Japanese
6 side.

7 Q What was the total strength of the Japa-
8 nese units participating in the battle? I mean
9 not only artillery but infantry also.

10 A At that time, there were extraordinary
11 mobilizations of troops. If my memory serves me
12 correctly, I believe at the end of hostilities the
13 number of infantry totalled eight thousand and the
14 artillery about one thousand. In other words, the
15 total number of troops was around ten thousand, or
16 less.

17 Q Do you know what reports on the Khasan
18 military operation did the division commander,
19 SUETAKA, make and whether this report was correct?

20 A The first reports were reported that
21 victory -- that the Japanese had won the victory,
22 but actually, after the 8th of August, the fighting
23 was not necessarily in favor of the Japanese. If
24 the fighting had continued without reinforcements,
25 the result would have been unfavorable for the

TANAKA

CROSS

1 Japanese.

2 Q Tell me, what is the distance between the
3 hills of the Khasan Lake area and Vladivostok?

4 A I don't know unless I see a map, but I
5 believe the distance is about seventy kilometers
6 and maybe twice -- two times this. I am unable to
7 answer with certainty unless I see a map.

8 Q And, do you know whether it is possible
9 to see Vladivostok from these hills?

10 A At the observation post, where I was, on
11 a clear day, I was able to see Vladivostok.

12 Q Are you aware of the importance of Vladi-
13 vostok to the USSR as it is the only port connect-
14 ing the USSR with her Maritime Province and with
15 Pacific countries?

16 A I know the significance which Vladivostok
17 holds.

18 Q Then, the Lake Khasan area had a very ser-
19 ious military importance, isn't that so?

20 THE PRESIDENT: Major Furness.

21 MR. FURNESS: I object on the grounds it
22 is argumentative and calls for the conclusion of the
23 witness.

24 THE PRESIDENT: It seems to me that the
25 cross-examination is relevant and material.

TANAKA

CROSS

1 MR. FURNESS: My objection, if your Honor
2 please, was to the fact that it calls for the con-
3 clusion of the witness.

4 THE PRESIDENT: The bare facts would
5 not enable us to decide when it is a question of
6 military strategy or military tactics. But, he is
7 an expert. I think the question can be properly
8 put to a man who is an expert.

9 The objection is overruled.

10 Q Will you answer please?

11 A Of course, it must be admitted that Vladivostok
12 can be seen from Changkufeng, but I do not
13 believe that Changkufeng had any strategic value
14 from a military point of view, because there were no
15 railroads or roads in the rear and was not an appropriate
16 base of operation for attack on Vladivostok.
17 It was valueless as a base of operation for attack
18 against Vladivostok.

19 Q As far as I can understand, if Vladivostok
20 is seen from the top of this hill, it could be fired
21 at also from the top of this hill.
22
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TANAKA

CROSS

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1 A At that time the Japanese artillery did
2 not possess any guns which were able to fire from
3 the -- from Tumon River to Vladivostok. Perhaps,
4 the Soviet forces possessed a gun which might
5 have been able to do so, but the Japanese -- the
6 range of the Japanese guns at that time was about --
7 was under 10,000 meters -- did not possess guns which
8 had a range of over 20,000 meters. When I mentioned
9 Japanese forces just now I meant the entire forces
10 of Japan.

11 Q It is very flattering to the Russian artillery,
12 but that has no relevance to the issues in the case.

13 Tell me, was this view dominating in the
14 Lake Khasan area?

15 A I admit that fact.

16 Q In the last question, I understood you that
17 the last -- that the first order for starting battle
18 operations was issued on July 11. Who gave this
19 order -- Who issued this order, what commander?

20 A The order to begin hostilities was issued
21 on the 30th of July. The order on the 11th of July
22 was not an order of fighting, but to concentrate
23 at the border. This order to concentrate was, as I
24 have mentioned before, The order was given to me
25 by Divisional Commander SUYETAKA.

TANAKA

CROSS
REDIRECT

1 Q And what Commanding General of the Army
2 issued the order about the concentration of the
3 troops; KOISO or NAKAMURA?

4 A I did not see any of these documents directly
5 or myself at the Divisional Headquarters, but judging
6 from common military knowledge I would say that the
7 order for concentration was naturally given by
8 Commanding General KOISO.

9 THE MONITOR: Commander of the Army, KOISO.

10 A (Continuing) I should like to add that this
11 was not an order for attack. It was an order to
12 concentrate.

13 Q But the troops were concentrated for the
14 purpose of fighting activities and for nothing else?

15 A That is the same in any country, but there
16 are cases in case of retreat when forces concentrate.

17 GENERAL VASILIEV: That is all, your Honor.

18 REDIRECT EXAMINATION

19 BY MR. FURNESS:

20 Q General TANAKA, the trenches and -- What date
21 did you see the intrenchments and barbed wire entangle-
22 ments -- What date did you first see the trenches and
23 barbed wire entanglements regarding which you have
24 testified?
25

A Our patrols were all sent -- reconnaissance

TANAKA

REDIRECT

1 was done on many occasions, but I carried re-
2 connaissance on several occasions. On a number of
3 occasions from the time that I arrived at the scene
4 on the 16th of July until the time of the first
5 withdrawal of our troops on the 28th.

6 Q And did you see those trenches and en-
7 tanglements on the first day that you made your
8 reconnaissance?

9 A The first time there were trenches -- I
10 saw trenches, there was only one line of barbed
11 wire barricades. Following the 20th of July these
12 barbed wire entanglements were increased gradually
13 and there were three of them in the end.

14 Q And were those all prior to the 29th of July?

15 A Yes.

16 Q Is the top of Changkufeng Hill flat or peaked?

17 A It is level, horizontal.

18 Q And were these trenches and barbed wire
19 entanglements well above the flat part of the hill?

20 A It was about 20 or 30 meters below the summit.

21 Q Was it below the flat part of the top of the
22 hill?

23 A Yes.

24 GENERAL VASILIEV: May I say a few words,
your Honor?

TANAKA

REDIRECT

1 I don't like to interrupt Mr. Furness,
2 but the fact is he asked the certain question --
3 he has asked certain questions already which were
4 answered in the affidavit and starts all again from
5 the very beginning.

6 THE PRESIDENT: To some extent they were.
7 I have been reading the affidavit as he gave his
8 evidence. The questions may be necessary to clear
9 up the position.

10 Q On what date were you ordered back to the
11 town of Rasan in Korea?

12 A I received the orders on the 28th.

13 Q And you returned?

14 A Yes, I returned.

15 Q With your troops?

16 A Yes.

17 Q Were other Japanese troops withdrawn at
18 that time?

19 A One engineer regiment and the 75th Infantry
20 Regiment remained, but all other units were withdrawn.

21 Q Now, do you know whether or not after
22 hostilities had ceased there was some negotiations
23 for a Commission to demarcate the border?

24 A I distinctly remember that there were such
25 negotiations.

TANAKA

REDIRECT

1 Q Do you know whether that Commission ever
2 met and settled that border?

3 A I do know that such a proposal was made,
4 but I regret that I do not remember that they were
5 actually met or not.

6 THE MONITOR: Or settled or not.

7 Q Then, you do not know, do you, whether the
8 border was every finally settled?

9 A I know definitely that there was no definite
10 settlement made; but, at the time of the truce at
11 Changkufeng, the foremost lines of both sides were
12 practically facing each other and I recall that this
13 line was literally the border -- became the border
14 line.

15 Q And after the truce were the troops of both
16 countries withdrawn?

17 A Both sides withdrew very, very clearly --
18 smoothly. However, the Soviet forces left a part
19 of their troops on the east slope of Changkufeng.

20 Q Now, you have testified about the
21 launching of large-scale hostilities. At the time
22 that those hostilities began, were the Russian
23 troops on Manchukuoan territory or Russian territory?
24

25 A I believe that at the time of the first
small-scale fighting as well as the large-scale

TANAKA

REDIRECT

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small-scale fighting as well as the large-scale

TANAKA

REDIRECT

1 hostilities that took place, the main strength
2 of the Soviet forces were in Manchukuoan territory.

3 Q And by "Manchukuoan territory" do you mean
4 Manchukuoan territory under the Russian contention
5 as to the border line?

6 A If the border line were that advocated --
7 which was contended by the Manchukuoan side, then
8 all of the Soviet forces were in Manchukuoan territory.
9 However, during the night attack which took place
10 on the 31st of July, the fighting took place at the
11 line of the trenches which I mentioned before.
12 Therefore, it is clear that even though we followed
13 the Soviet contention as to the border, the fighting
14 took place in Manchukuoan territory.

15 THE MONITOR: The date should be corrected
16 to read July 30th, the night of July 30th.

17 A (Continuing) But at this time, if we judge
18 by the border line which the Soviet side contended,
19 then the Soviet tanks and cannons were in Soviet
20 territory -- tanks or artillery were in Soviet
21 territory.
22

23 Q But their ground troops were not; is that
24 correct?

25 A The first-line troops were not, of course.

TANAKA

REDIRECT

1 Q Now, you testified that there was a con-
2 centration of between eight and ten thousand Japanese
3 troops at the end of the hostilities. Did you ob-
4 serve a concentration during the same period of
5 Russian troops?

6 A Yes, I did see Russian troops concentrated.

7 Q What did you see?

8 A Judging by eyesight, the forces were very
9 large. According to intelligence reports later,
10 the Soviet forces had three infantry divisions
11 in the rear. At the end of hostilities, according
12 to intelligence reports, the Soviet side had three
13 infantry divisions, one cavalry division, and one
14 brigade of artillery.

15 THE PRESIDENT: General Vasiliev.

16 GENERAL VASILIEV: Your Honor, as far as I
17 can understand, the redirect examination exceeds
18 all the limits. New questions are asked which could
19 have been included in the affidavit instead of asking
20 them here.

21 THE PRESIDENT: I think this arises out of
22 your cross-examination, which showed, or tended to
23 show that KOISO had directed a concentration. This
24 question is directed to show that the Russians also
25 directed a concentration. I can't say that it is not

TANAKA

REDIRECT

1 re-examination. It may be doubtful.

2 The objection is overruled.

3 BY MR. FURNESS (Continued):

4 Q Now, you testified on cross-examination
5 that Changkufeng dominated the Lake Khasan area?

6 A I did.

7 Q Did it dominate the territory to the west --
8 in other words, the territory of Korea and Manchukuo?

9 A The important border railway, the Korean
10 Railway, is directly beneath the hill. Also, the
11 hill dominated the Manchukuoan and Korean territory.

12 Q And is it, in your opinion, an important
13 strategic point for the U.S.S.R. if it desired to
14 attack Korean or Manchukuoan territory?

15 A I believe it is a very important military
16 strategic point, because it would enable the immedi-
17 ate cutting of the railway. As a matter of fact,
18 during the actual fighting the station of Kogi on
19 the railway received a concentrated barrage of
20 artillery fire by the Soviets and blown to pieces,
21 thus disrupting communications.

22 Q General, you have testified --

23 THE MONITOR: Just a moment.

24 The destroying of the station disrupted
25 transportation of supplies and communications for one

TANAKA

REDIRECT

1 day.

2 Q General, you have testified as to the divi-
3 sional strength of the concentration of Russian
4 troops. Could you tell us the number of men con-
5 centrated in the Russian forces, in your estimate?

6 A Not being a Russian officer, I am not able
7 to answer accurately, but judging from military common
8 sense, approximately 30,000.

9 Q Is that based on intelligence reports which
10 had been received by the Japanese?

11 A Since then we did have intelligence reports,
12 but I believe this figure was arrived at as a result
13 of questioning of prisoners, some ten odd prisoners
14 who were captured.

15 Q According to the information that you received,
16 had the Russian troops occupied the height of Changku-
17 feng on the 11th of July?

18 A Yes, they did occupy it.

19 MR. FURNESS: No further questions.

20 THE PRESIDENT: Well, I suppose the
21 witness can be released on the usual terms. He is
22 released accordingly.

23 (Whereupon, the witness was excused.)
24
25

ISONO

DIRECT

1 MR. FURNESS: We call as our next witness
2 ISONO, Yuzo. His affidavit is defense document 1594.

3 - - -

4 Y U Z O I S O N O, called as a witness on behalf
5 of the defense, being first sworn, testified
6 through Japanese interpreters as follows:

7 MR. FURNESS: May the witness be shown de-
8 fense document 1594?

9 (Whereupon, a document was handed
10 to the witness.)

11 DIRECT EXAMINATION

12 BY MR. FURNESS:

13 Q ISONO, is that your affidavit?

14 A Yes.

15 Q Did you sign and swear to it?

16 A Yes, I did.

17 Q Are the facts stated therein true and cor-
18 rect?

19 A Yes.

20 MR. FURNESS: I offer in evidence defense
21 document 1594.

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Defense document 1594
24 will receive exhibit No. 2630.
25

ISONO

DIRECT

1 (Whereupon, the document above referred
2 to was marked defense exhibit 2630 and received
3 in evidence.)

4 MR. FURNESS: I will read exhibit No. 2630.

5 "I, ISONO, Yuzo, after having been duly
6 sworn according to the Japanese formula, make the
7 following statement of my own free will.

8 "1. I am 44 years old and reside in Tokyo,
9 Shinagawa-ku, Nishi-Nakarobu, 5 Chome, 1213 banchi.

10 "2. I am, at present, director of the
11 Repatriation Division, Central Liaison Office of the
12 Japanese Government.

13 "3. I was, from June 1945 through July
14 1946, chief of the Archive Section of the Secretariat
15 of the Japanese Foreign Ministry, and as such had
16 custody of all documents and archives of the Japanese
17 Foreign Office.

18 "4. The buildings housing the Foreign
19 Office were partly destroyed by fire on 7 January
20 1942 and many documents were destroyed as a result
21 of said fire.

22 "5. The remaining buildings housing the
23 Foreign Office were almost entirely reduced to ashes
24 as a result of the air raid by Allied Planes on the
25 night of 23-24 May 1945 and all but one of the vaults

ISONO

DIRECT

1 containing documents and archives were destroyed by
2 the fires. Among the offices which were totally
3 destroyed were offices occupied by the 3rd Section
4 of the Political Affairs Bureau. This section,
5 formerly called the 1st Section of the Euro-Asiatic
6 Bureau, had charge of all matters relating to Soviet
7 Russia, including the Chang-ku-fang and Nonmanhan
8 or Khalkin-Gol Border Incidents. It was the practice
9 of that section, as well as some others, to retain
10 all originals, copies and drafts, of telegrams,
11 letters, messages and other communications, memoranda
12 of conversations and opinions, and manuscripts relat-
13 ing to matters under its jurisdiction. The fires
14 destroyed all such papers.

15 "6. During the last week of June in contem-
16 plation of a landing of Allied Forces and moving the
17 capital away from Tokyo, it was decided to burn
18 papers of comparatively recent dates which in our
19 opinion at that time more of a confidential character.
20 All originals, copies and drafts of top secret,
21 secret and coded telegrams, letters, messages and
22 other communications, memoranda of conversations
23 and opinions, and manuscripts were burned under my
24 supervision during the last week of June and the first
25 week of July which had not been destroyed by the

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1 previous fires. I do not remember burning documents
2 relating to the Changkufeng and Khalkin-Ghol inci-
3 dents at that time. I believe that there were none
4 left to burn. If any were there, however, they were
5 in the class which it was decided to burn, and I am
6 sure they were burned.

7 "Signed: ISONO, Yozo."

8 That completes our direct examination, your
9 Honor.

10 THE PRESIDENT: We will take up the cross-
11 examination after the recess.

12 "We will recess for fifteen minutes.

13 ("hereupon, at 1045, a recess was
14 taken until 1100, after which the proceedings
15 were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Colonel Ivanov.

4 COLONEL IVANOV: I am Colonel Ivanov.

5 CROSS-EXAMINATION

6 BY COLONEL IVANOV:

7 Q Mr. Witness, you served with the Archives
8 Section of the secretariat of the Foreign Ministry
9 only from June, 1945, isn't it so?

10 A Yes.

11 Q And previously you didn't work there?

12 A No.

13 Q Of the facts that during the fire in January,
14 1942, a number of documents of the archives of the
15 Foreign Ministry were allegedly burned you know only
16 from hearsay, don't you?

17 A Yes.

18 Q And you don't know what particular documents
19 were burned in May, 1945, isn't it so -- 1942?

20 A Upon assuming the post of chief of the Archives
21 Section is is only natural that the new chief should
22 know what had taken place before with regard to docu-
23 ments. It is natural, therefore, that I heard various
24 reports from my predecessor.

25 Q Do you know what particular documents were

ISONO

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1 burned in 1942, don't you?

2 A Considerable numbers of documents were destroyed
3 by fire and there were records at that time as to what
4 sort of documents were destroyed, burned.

5 Q Of the fact that the considerable number of
6 the documents of the archives of the Foreign Ministry
7 were destroyed as the result of fires in May, 1945,
8 that is before you assumed your duties as director
9 of the Archives Section, you learned also from hearsay,
10 didn't you?

11 A The raids on the 23rd, 24th of May of 1945 --
12 in these raids the Foreign Office was almost totally
13 destroyed by fire. I actually saw the places that were
14 burned and destroyed and because of the fact I assumed
15 the post of chief of archives immediately after this
16 fire my knowledge of this is more than merely hearing
17 such facts from rumors.

18 Q And you apparently do not know what particular
19 documents were burned in May, 1945, is it not so?

20 A A great number of documents were destroyed by
21 the fire and, as a matter of fact, it was difficult
22 to ascertain just what documents were destroyed at
23 that time.

24 Q But earlier you told me that there was a list
25 of documents which were burned in January 1945 -- 1942.

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1 Cannot you produce this list before the Tribunal?

2 A I do not believe that such records exist
3 now.

4 Q Do you know whether some of the documents
5 of the archives of the Foreign Ministry were evacuated
6 to some safe place and were kept there after the
7 surrender of Japan?

8 A Yes, I do.

9 Q So some part of the documents was evacuated.
10 What part of the documents it was and where they were
11 evacuated to?

12 A I knew -- generally speaking I knew what
13 documents were removed but I don't know just what
14 documents were placed in such and such a place.

15 THE MONITOR: At the present moment I cannot
16 recall just what documents existed in what place.

17 Q Do you know who of the officials of the
18 Foreign Ministry was at the head of the branch of the
19 Archives Section which was evacuated from Tokyo?

20 A What do you mean by branch chief?

21 Q I mean that part of the documents of the
22 Archives Section of the Foreign Ministry which was
23 evacuated from Tokyo. Were these documents evacuated
24 to one of the agencies of the Foreign Ministry or was
25 there created some special place for keeping these

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documents after the evacuation?

1 A I understand what you mean. The Archives
2 Section of the Foreign Office removed documents which
3 were not necessary, documents to which reference was
4 not necessary. These documents were removed to Saitama
5 Prefecture and distributed in about four places. The
6 place of location was in warehouses of the various
7 farmers. These were locked. This work was done by
8 the Archives Section and no personnel were stationed
9 there but the warehouse itself was locked and could
10 not be opened unless by a member of the Archives
11 Section.
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1 THE PRESIDENT: How do you know the documents
2 removed in that way did not include those relating
3 to the three Russian border incidents?

4 THE WITNESS: It is just that I believe that
5 they were not included in these documents which were
6 sent out of Tokyo.

7 THE PRESIDENT: Would those border incident
8 documents be required for reference from time to time?

9 THE WITNESS: I believe that these documents
10 were not very necessary during the war. However, at
11 the time these documents were removed, at that time
12 I was not the chief of the Archives Section and I do
13 not know by what standards these documents were
14 selected for removal and placed in special places.

15 THE PRESIDENT: On what do you base your
16 belief that these border incident documents were
17 destroyed and not removed?

18 THE WITNESS: Documents of such nature were
19 usually as a rule kept by the section which was
20 actually in charge of such matters, in this case the
21 Third Section of the Political Affairs Bureau; and
22 during the fire of the 23d of May, the buildings which
23 housed this particular bureau were completely
24 destroyed by fire and, therefore, I believe that the
25 documents also were destroyed.

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1 THE PRESIDENT: When were the documents
2 removed as you state?

3 THE WITNESS: I believe it was in April of
4 1944.

5 THE PRESIDENT: Well, that was before May --
6 no, that was after the destruction of the building of --
7 I forget what section you describe it as?

8 THE WITNESS: No, it was before the Foreign
9 Office was burned, destroyed by fire.

10 THE PRESIDENT: Well, then, why didn't they
11 remove these border incident documents if they were not
12 required for use from time to time?

13 THE WITNESS: As I said before, this matter --
14 documents relating to this matter were left in charge
15 of the section which was directly concerned with such
16 affairs, and I do not think that these documents had
17 been delivered or handed over to the Archives Section.
18 And if there were any which were passed over to the
19 Archives Section, this was only a very small number.

20 THE PRESIDENT: Well, I don't understand
21 what you base your belief on. Documents not required
22 for immediate reference were removed in 1944. Would
23 not that extend to the documents kept by that parti-
24 cular section which was responsible for the border
25 incident papers?

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1 THE WITNESS: The documents which were
2 removed were those which were in the custody of the
3 Archives Section. With regard to other documents
4 which were kept by the various responsible sections,
5 these were not included in the plan for removal.

6 THE PRESIDENT: Yes, Colonel.

7 BY COLONEL IVANOV (Continued):

8 Q So, Mr. Witness, you do not deny that among
9 the documents which were evacuated from Tokyo there
10 might have been documents relating to the Changku Feng
11 and Nomongan area incidents?

12 A They may have been included.

13 Q Do you know anything about the fate of the
14 documents which were evacuated from Tokyo?

15 A These documents which were removed have now,
16 at the present time, all been brought back to Tokyo.
17 Of course, as was pointed out in my affidavit, at the
18 time the remaining documents were removed, were disposed
19 of, personnel were dispatched to the place to dispose
20 of these--

21 THE MONITOR: Some of those persons were dis-
22 patched to dispose of some of the documents which have
23 been previously removed.

24 Q What part of these documents did you see, and
25 where are these documents kept now?

ISONO

CROSS

1 A Do you refer to the documents which were
2 removed from Tokyo?

3 Q I speak about the office which received these
4 archives which were returned to Tokyo.

5 A The documents which were removed, the removal
6 was undertaken by the Archives Section of the Foreign
7 Office. Therefore, when these documents were brought
8 back they were brought back by the Archives Section
9 of the Foreign Office and they are at the present in
10 the custody of the Archives Section. But I believe
11 that it is difficult to say definitely just what
12 of these documents had been removed to a certain place
13 at the time of removal.

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1 Q You told me you saw these documents. Were
2 not among these documents the documents relating to the
3 correspondence concerned in the Russo-Japanese relations?

4 A In view of the fact that there were a very
5 large number of documents, although I glanced through
6 them, I cannot say just what the context of each was --
7 I do not remember just what the contents of each are.

8 THE PRESIDENT: How do you know the Border
9 Incident documents were not included?

10 THE WITNESS: I do not. Although I saw all
11 of the documents, it does not mean that I remember
12 just what each of these documents were. I am not
13 definitely able to do so.

14 As I have said before, it was the rule that
15 documents of a particular nature -- of this nature
16 were held in the custody of the section or bureau
17 concerned with such matter, and it is just that I be-
18 lieve that these were not included in the ones which
19 were removed.

20
21 Q Mr. Witness, will you tell the Tribunal why
22 don't you deal in your affidavit with the question of
23 evacuation of documents of the Foreign Office from
24 Tokyo? Did you hide from defense this information,
25 or the defense didn't want to include this information
into your affidavit?

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1 THE PRESIDENT: Major Furness.

2 MR. FURNESS: I object to these questions,
3 if your Honor please. The affidavit is on record and
4 speaks for itself.

5 THE PRESIDENT: Well, he can't be asked whether
6 he hid anything from you unless he admits there is
7 something which leads to that.

8 MR. FURNESS: It is like asking him "Why
9 didn't you answer a question which you weren't asked."

10 COLONEL IVANOV: Your Honor, in his answers
11 to the questions of the cross-examination the witness
12 admits that the documents in question -- admitted the
13 possibility that the documents in question were among
14 the documents and maybe are among them now which were
15 evacuated from Tokyo.

16 THE RUSSIAN MONITOR: The documents which
17 are mentioned in your affidavit.

18 COLONEL IVANOV: (Continuing) If he came to
19 know about this, it is natural to ask why didn't the
20 witness, who was at the head of the Archives Section
21 of the Foreign Office, didn't clarify this question
22 in his affidavit.

23 THE PRESIDENT: As far as I can judge he has
24 stuck to his story as given in the examination in chief.
25 He hasn't said anything inconsistent with that that I

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17 are mentioned in your affidavit.

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19 know about this, it is natural to ask why didn't the
20 witness, who was at the head of the Archives Section
21 of the Foreign Office, didn't clarify this question
22 in his affidavit.

23 THE PRESIDENT: As far as I can judge he has
24 stuck to his story as given in the examination in chief.
25 He hasn't said anything inconsistent with that that I

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1 appreciate. He says these Border Incident documents
2 were kept at a certain place which was not subject to
3 that provision for the removal of documents, and that
4 the whole of the documents there were subsequently
5 destroyed by fire. He hasn't departed from that. If
6 he did I have missed the point.

7 Q I would like the witness to answer the question
8 why didn't he in his affidavit mention the archives of
9 the Foreign Office which remain up to the present time?

10 MR. FURNESS: My objection, your Honor, stands.
11 But again it is like asking him "Why didn't you answer
12 a question which you weren't asked."

13 THE PRESIDENT: Well, let him answer that
14 question. That is not insulting.

15 Answer the question.

16 A It is not only that I didn't -- that I forgot
17 to mention it, but it is that these documents which
18 were removed to safety were later returned to Tokyo
19 and are all at present in custody of the Archives Sec-
20 tion of the Foreign Office. Therefore, I didn't think
21 it was necessary. I rather assumed that this fact was
22 included.

23 THE MONITOR: Therefore, I did not believe
24 it would be necessary to refer to the temporary removal
25 of the part of the documents that was evacuated.

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1 Q Mr. Witness, will you tell, wasn't it the
2 Foreign Minister SHIGEMITSU who took the decision at
3 the end of June 1945, of which you write in your affi-
4 davit, to burn part of the documents of the Ministry
5 of Foreign Affairs?

6 A At that time Japan, we were under the condi-
7 tion where landing operations by the Allied Forces was
8 expected at any minute. Therefore, in view of this
9 situation, although in normal times there are regula-
10 tions regarding the handling of Foreign Office docu-
11 ments, because of this unprecedented crisis which was
12 faced, we did not ask for instructions of the higher-
13 ups but held two meetings, participated in by chiefs
14 of secretariat sections or bureau chiefs, to discuss
15 this matter.

16 Q Was Minister for Foreign Affairs SHIGEMITSU at
17 Tokyo at that time -- in Tokyo?

18 A At that time the Foreign Minister was not
19 Mr. SHIGEMITSU.

20 Q Who was Foreign Minister at the end of June-
21 1945 and at the beginning of July 1945?

22 A I believe it was the former Foreign Minister
23 TOGO.

24 Q Was it possible for the chiefs of the bureaus
25 of the Foreign Ministry to reach separate decisions of

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1 the burning of documents when the Foreign Minister
2 himself was in Tokyo?

3 A Probably there are regulations which would --
4 there may have been a change in the regulations but--

5 THE MONITOR: That may have been abnormal
6 procedure.

7 A (Continuing) It may have been an abnormal
8 procedure, but the situation at that time was so critical
9 an unprecedented situation was confronted. Therefore,
10 an exception was made and such a meeting was held at
11 which it was decided that if possible some of the docu-
12 ments be removed to safety. But due to transportation
13 difficulties it was decided that a part of these docu-
14 ments should be disposed of.

15 Q Answer my question directly: Did the Foreign
16 Minister know at the end of June 1945, and did he take
17 the decision to burn the documents or to destroy the
18 documents, did he take the decision himself?

19 A No.

20 Q Mr. Witness, will you tell the Tribunal, wasn't
21 it by order of the Foreign Minister, Mr. SHIGEMITSU,
22 that you burned the remaining documents immediately
23 after the surrender of Japan on August 14-15, 1945?

24 A No, that is not so.

25 Q According to whose order were these remaining

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1 documents of the Foreign Ministry burned in those days?

2 MR. FURNESS: If your Honor please, I object
3 to the question as outside the scope of the direct
4 examination.

5 COLONEL IVANOV: Your Honor, may I respectfully
6 draw your attention to the last words of the witness
7 which are in his affidavit?

8 THE PRESIDENT: Well, we must hear Mr. Furness!
9 objection, Colonel. You can reply to it.

10 MR. FURNESS: The witness has testified with
11 regard to the burning of documents through June and
12 July 1945. There is no evidence of any burning of
13 documents after that date.

14 THE PRESIDENT: Now we will hear you, Colonel.

15 COLONEL IVANOV: Your Honor, at the end of the
16 affidavit, after the fact of the burning of documents
17 at the end of June and the beginning of July 1945 was
18 dealt with, that is paragraph 6 of the affidavit, the
19 following words are said: "If any were there, however,
20 they were in the class which it was decided to burn
21 and I am sure they were burned."

22 That gives the ground to suppose that these
23 documents were burned one and a half or two months
24 later during the capitulation of Japan. Therefore,
25 my question doesn't exceed the limits -- doesn't go

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20 they were in the class which it was decided to burn
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23 documents were burned one and a half or two months
24 later during the capitulation of Japan. Therefore,
25 my question doesn't exceed the limits -- doesn't go

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1 beyond the limits of the affidavit.

2 MR. FURNESS: If your Honor please, it is
3 perfectly clear from the context of the affidavit when
4 he says "I am sure they were burned" he is referring
5 to the burning during the last week of June and first
6 week of July.

7 THE PRESIDENT: We don't think that refers
8 to the burning after the surrender.

9 The objection is upheld.

10 COLONEL IVANOV: I would like to ask one ques-
11 tion more.

12 A If as you say all Foreign Office -- Mr. Witness,
13 tell me if all those hundreds of documents belonging
14 to Foreign Office which the prosecution and the defense
15 received and are receiving now, are all these documents
16 taken from the archives which were returned to Tokyo, or
17 are there separate archives or sources from which these
18 documents are taken and which we can use?

19 A Of course, the documents which were brought
20 back from the place -- in addition to these documents
21 which were brought back to Tokyo from where they had
22 been removed for safety there were those which remained
23 in the archives of the Foreign Office. But at the time
24 they were burned the work was done in such a rush, and
25 was done so haphazardly, that there were some documents

ISONO

CROSS

1 burned which should not have been burned and others
2 which were not burned which should have been burned.
3 Therefore, documents which we desired to burn were not
4 burned in some cases.

5 Recalling now the work was done in such a
6 rush without reviewing each of the documents burned,
7 and the fact that all the documents were burned, I
8 consider it a very regretful fact at the present time.

9 COLONEL IVANOV: That is all, your Honor.

10 MR. FURNESS: Your Honor--

11 THE PRESIDENT: We have a few minutes, Major.

12 MR. FURNESS: There is no redirect examination,
13 your Honor.

14 I ask that the witness be excused on the usual
15 terms.

16 THE PRESIDENT: He is excused accordingly.

17 (Whereupon, the witness was excused.)

18 THE PRESIDENT: We will adjourn until half
19 past one.)

20 (Whereupon, at 1200, a recess was taken.)
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AFTERNOON SESSION

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2 The Tribunal met, pursuant to recess, at
3 1330, Hon. Erime Havey Northcroft, Member from the
4 Dominion of New Zealand and Hon. R. B. Pal, Member from
5 the Government of India not sitting.

6 MARSHAL OF THE COURT: The International
7 Military Tribunal for the Far East is now resumed.

8 THE PRESIDENT: Major Furness.

9 MR. FURNESS: We call as our next witness
10 HAYASHI, Kaoru. The documents involved are document
11 1598 and 1598-B.
12

13 K A O R U H A Y A S H I, called as a witness on
14 behalf of the defense, being first duly sworn,
15 testified through Japanese interpreters as
16 follows:
17

DIRECT EXAMINATION

18 BY MR. FURNESS:

19 Q What is your name?

20 A HAYASHI, Kaoru.

21 MR. FURNESS: May the witness be shown defense
22 document 1598.

23 (Whereupon, the document was handed to
24 the witness.)
25

HAYASHI

DIRECT

1 Q Is that your affidavit?

2 A Yes.

3 Q Are the facts therein stated true and correct?

4 A Yes.

5 MR. FURNESS: I offer in evidence defense docu-
6 ment 1598.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Defense document 1598
9 will receive exhibit No. 2631.

10 (Whereupon, the document above referred
11 to was marked defense exhibit No. 2631 and
12 received in evidence.)

13 MR. FURNESS: I read exhibit 2631.

14 THE PRESIDENT: Omitting the formal parts.

15 MR. FURNESS: (Reading)

16 "1. I am 39 years old and reside in Tokyo,
17 Oota-ku, Denechofu, 2-Chome, 808 Banchi, Tokyo.

18 "2. I have been since August 1946 Chief of the
19 Archives Section of the Secretariat of the Japanese
20 Foreign Ministry, and as such have custody of documents
21 and archives of the Foreign Office.

22 "3. I have made a thorough search of all the
23 archives and files of the Foreign Office for documents
24 relating to the Cheng-ku-feng Border Incident including
25 originals, copies and drafts of telegrams, letters,

HAYASHI

DIRECT

1 messages and other communications, opinions and manu-
2 scripts.

3 "4. I have been unable to find any of the
4 documents referred to in paragraph 3 of this affidavit.
5 An official record of the Foreign Office shows that
6 all files relating to this incident were destroyed by
7 fire, and I believe that this is so.

8 "5. The records of the Foreign Office do no
9 indicate that any of such documents were delivered to
10 the International Prosecution Section, the Washington
11 Document Center nor to any other persons."

12 Signed 20 May 1947.

13 May the witness now be shown defense document
14 1598-B.

15 (Whereupon, the document was handed
16 to the witness.)

17 Q Is that your affidavit?

18 A Yes.

19 Q Did you sign and swear to it? Are the facts
20 stated therein true and correct?

21 THE MONITOR: Mr. Furness, the witness did
22 not answer to your first question, sir.

23 THE WITNESS: Yes.

24 Q Did you sign and swear to it?

25 A Yes.

HAYASHI

DIRECT

1 Q Are the facts stated therein true and correct?

2 A Yes.

3 MR. FURNESS: I offer in evidence defense
4 document No. 1598-B.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Defense document 1598-B
7 will receive exhibit No. 2632.

8 (Whereupon, the document above
9 referred to was marked defense exhibit
10 No. 2632 and received in evidence.)

11 MR. FURNESS: I will read exhibit 2632, omitting
12 the formal parts:

13 "1. I am, at present, in the office of the
14 Chief of the Archives Section, Japanese Foreign Ministry,
15 as such having in my custody and as my responsibility
16 all the documents composing the files of the Japanese
17 Foreign Ministry.

18 "2. The telegrams exchanged between the Japanese
19 Embassy at Moscow and the Japanese Foreign Ministry,
20 during the period from 1939 to 1941, on the subjects
21 of a proposed non-aggression or neutrality pact, between
22 the two countries, and of the Nomonhan incident and the
23 demarkation of the boundary lines between the Mongolian
24 People's Republic and Manchoukuo in Nomonhan districts,
25 having probably been lost in the fire during the war,

HAYASHI

DIRECT

1 can not be found in the files preserved in the Japanese
2 Foreign Ministry.

3 "3. The Japanese Foreign Ministry did not re-
4 ceive on August 8, 1945, or thereafter, the telegram,
5 despatched on the said date by Japanese Ambassador SATO
6 at Moscow and addressed to the Japanese Foreign Minister,
7 concerning the notification of the Soviet Government to
8 commence hostilities against Japan."

9 Q Mr. HAYASHI, with regard to the word "documents",
10 did you intend by that word to include printed matter?

11 A No, it doesn't include printed matter.

12 MR. FURNESS: You may cross-examine.

13 THE PRESIDENT: Mr. Tavenner.
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HAYASHI

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CROSS-EXAMINATION

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2 BY MR. TAVENNER:3 Q Mr. HAYASHI, prior to your taking the
4 position of Chief of the Archives Section of the
5 Foreign Ministry, did you hold any other position
6 in the Archives Section?

7 A No.

8 Q Prior to that time did you hold any posi-
9 tion in the Foreign Ministry?

10 A Yes.

11 Q I did not get the answer.

12 A Yes.

13 THE PRESIDENT: "Yes."

14 Q What was the position?

15 A Prior to my becoming Chief of the Archives
16 Section, I was Chief of the Data Section of the
17 General Affairs Bureau.18 Q What were your duties as Chief of that
19 section?20 A My duties were to collect data concerning
21 the international situation and to compile data to
22 that effect.23 Q What was the period during which you held
24 that position?

25 A From the 1st of February, 1946 until the

HAYASHI

CROSS

1 time I became Chief of the Archives Section.

2 Q Before February 1, 1946, you held no posi-
3 tion in the Foreign Ministry?

4 A Before that I was Chief of the 3rd Section
5 of the Treaty Bureau.

6 Q Over what period of time did you hold that
7 position?

8 A From September, 1945 until I became Chief
9 of the Data Section.

10 Q Prior to September 1945 did you hold any
11 position in the Foreign Ministry?

12 A I was a secretary in the 3rd Section of the
13 Political Affairs Bureau.

14 THE PRESIDENT: Major Furness.

15 MR. FURNESS: If the Tribunal please, I
16 object to this line of questioning as far outside
17 the scope of the direct examination.

18 THE PRESIDENT: I think it is within
19 the scope of the examination. Objection overruled.

20 Q Now, you have testified that there is an
21 order in existence by the Foreign Office which shows
22 the destruction of certain documents by fire. What
23 was the date of that order?

24 MR. FURNESS: If the Court please, I object
25 to that question. His testimony is that there is an

HAYASHI

CROSS

1 official record of the Foreign Ministry in which it
2 is stated that certain documents had been destroyed
3 by fire. What is the date of that record?

4 A I don't know the definite date. But docu-
5 ments existing now in the Foreign Office state that
6 it was so.

7 Q Do you have a copy of that document with you?

8 A I do have it at the office -- the Foreign
9 Office, but I do not have it here.

10 Q Who prepared that document?

11 A It was myself and a member of my section --
12 Archives Section.

13 Q I would like for you to produce a copy of
14 that record to the prosecution for its examination.

15 THE PRESIDENT: You can insist on proof of
16 the contents that way.

17 MR. TAVENNER: I did not understand your
18 Honor's remark.

19 THE PRESIDENT: I was expecting you to ob-
20 ject to that evidence of the contents of a document
21 which is the source of his information. That document
22 should be produced if you insist -- the original.

23 MR. TAVENNER: The reason I did not object
24 when the affidavit was offered was that we desired
25 the production of that document for the purpose of

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1 examination of it. And I would like to reserve the
2 right to further cross-examine this witness when that
3 document is produced.

4 Q Now, when did you prepare this document?

5 A In March.

6 Q Of what year?

7 A March of this year.

8 Q You prepared a statement in March of 1947
9 of documents destroyed during the period of the war?

10 A Yes. I know that previous to this there was
11 a document of a similar nature.

12 Q Who prepared that document?

13 A I do not know.

14 Q Did you base your document upon the one that
15 some unknown person had prepared?

16 A No. When I said I did not know, I said I
17 did not know whether it was my immediate predecessor
18 or the one before that.

19 Q So that the document that now is in exist-
20 ence in the Foreign Office is one prepared by you
21 after your consideration of one prepared by a person
22 who preceded you in office, is that correct?

23 A Yes. Generally speaking, yes.

24 I.R. TAVENNER: Then I withdraw my request
25 for the document which he says he prepared, in the

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1 light of the witness' answer.

2 Q Then you were not relying on your own
3 personal knowledge in the preparation of this
4 record which you say is now in existence.

5 A In March, when I wrote this record -- this
6 document, I investigated the matter with a member of
7 my same section, the Archives Section, and again
8 prior to writing my affidavit, I also investigated
9 this matter, and it is based on these facts.

10 Q Do you know where the documents were re-
11 moved to that were removed from the archives of the
12 Foreign Ministry?

13 MR. FURNESS: If your Honor please, I ob-
14 ject to that as outside the scope of the direct
15 examination. This witness has not testified to that
16 at all.

17 MR. TAVENNER: If your Honor please, if I
18 may be permitted to say so, I think it has a direct
19 bearing upon the trustworthiness of the witness'
20 testimony inasmuch as the witness has testified that
21 these records were destroyed.

22 THE PRESIDENT: It is directed to credit.
23 Objection overruled.

24 Q Please answer the question.

25 A I do not know where the Foreign Office

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1 documents were removed or when these documents were
2 returned again. But, when I became Chief of the
3 Archives Section, I learned from my predecessor that
4 all documents which were removed had been brought
5 back.

6 Q Did you also learn that some of the docu-
7 ments had been placed in caves and other places
8 where they could be concealed?

9 I would like to change that question. In-
10 stead of referring to caves, I meant air raid
11 shelters.

12 A I did not hear where these documents were
13 removed.

14 Q You have no personal knowledge of your own
15 that the documents -- all the documents that had
16 been concealed by various methods were, in fact,
17 returned, do you?

18 THE PRESIDENT: Didn't somebody keep a
19 record of the whereabouts of these documents which
20 were sent to caves or elsewhere?

21 MR. TAVENNER: I will ask that question.

22 THE WITNESS: I did not hear from my prede-
23 cessor where these documents had been removed to.

24 Q Now, you state that --

25 THE PRESIDENT: But who is responsible for

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1 recovering them? Did your predecessor remain re-
2 sponsible or did the responsibility fall on you?

3 THE WITNESS: The question of bringing
4 back these documents to the Foreign Office -- the
5 responsibility rested with my predecessor. I be-
6 lieve that is so.

7 Q What was his name?

8 A I believe it was Section Chief ISONO.

9 THE PRESIDENT: How did the responsibility
10 come to be divided in that way?

11 A During the time that I held the office
12 there were no documents brought back to the Foreign
13 Office -- as a Section Chief. I understand that the
14 documents were brought back from the place where they
15 had been removed to during the time Mr. ISONO was
16 Chief of the Section.

17 Q Now, you referred to a record showing the
18 documents or describing the documents that had been
19 destroyed by fire. Was there also a record showing
20 the documents which had been concealed in air raid
21 shelters and warehouses over Japan?

22 A From what I recall here, only the -- the
23 records only mention the fact of those documents
24 which were destroyed by fire.

25 Q How was it possible, then, to determine

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1 recovering them? Did your predecessor remain re-
2 sponsible or did the responsibility fall on you?

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4 back these documents to the Foreign Office -- the
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15 they had been removed to during the time Mr. ISONO
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18 documents or describing the documents that had been
19 destroyed by fire. Was there also a record showing
20 the documents which had been concealed in air raid
21 shelters and warehouses over Japan?

22 A From what I recall here, only the -- the
23 records only mention the fact of those documents
24 which were destroyed by fire.

25 Q How was it possible, then, to determine

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1 whether all the records had been returned that had
2 been sent out to the warehouses and the other places
3 unless a memorandum had been kept?

4 A Concerning this point, it is just that I
5 had heard from my predecessor.

6 Q Had you examined the records of the
7 archives to discover whether such a list exists,
8 that is, a list of documents that had been concealed?

9 A No.

10 Q Will you make such an examination?

11 A I have not heard that any documents were
12 hidden, and I was told that all those documents which
13 had been removed had all been brought back. And I
14 do not believe that there is any necessity to do so.

15 Q I will ask you again, will you make a search
16 of the records of your archives for the purpose of
17 finding, if they can be found, lists of those docu-
18 ments?

19 A What do you mean by "those documents"?

20 Q The documents that were removed to ware-
21 houses or any place else of concealment.

22 A I have heard that all documents which had
23 been removed, had been brought back. I do not re-
24 member that any records had been kept of those docu-
25 ments which had been removed.

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1 MR. TAVENNER: I will apply in Chambers
2 for an order from the Tribunal directing that such
3 an investigation be made.

4 THE PRESIDENT: Where did your predecessor
5 keep the list of documents that were removed by him?

6 THE WITNESS: I have not heard that my
7 predecessor had kept any records of those documents
8 which had been removed. And, moreover, I heard
9 only from my predecessor verbally -- he told me
10 orally that all those documents which had been re-
11 moved had been brought back.

12 Q When you prepared the record in March of
13 1947 showing the documents destroyed by fire, dur-
14 ing the period of the war, at whose direction was
15 this done?

16 A I, myself, instructed a member of the
17 Archives Section to make such a record.
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BY THE PRESIDENT:

1 Q Haven't you a register showing the docu-
2 ments received by the office and what became of them?

3 A Yes, there are records. Records are kept.

4 Q Are those records available, and if so,
5 where?

6 A That is the approximate date or time of the
7 document that has been referred to?

8 Q I am not referring to any one in particular.
9 I suppose the Japanese Foreign Office when it
10 received a document entered it in a register.

11 A Yes, that is true.

12 Q And would not that register show what be-
13 came of the document?

14 A Yes.

15 Q Are those registers available?

16 A Yes.

17 Q Do they show what happened to these border
18 incident documents?

19 A As I said before, the old records of the
20 originals no longer exist, and documents relating
21 to the Changkufeng incident -- I do not know whether
22 they -- Unless I search into the files I do not know
23 whether they exist or not, in view of the fact that
24 the originals of the records have been lost.
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1 Q I am talking about the registers of the
2 records, not the records themselves.

3 A According to the register, documents relat-
4 ing to the Changkufeng incident do not exist.

5 Q Will the register show that?

6 A Yes.

7 Q Is the register in existence now?

8 A By that register, as I mentioned before,
9 documents which I had made in March of this year.

10 THE PRESIDENT: I believe we ought to con-
11 tinue this in chambers. I think we ought to make
12 sure what happened to these documents beyond ques-
13 tion. Of course there may be a limit to what we can
14 do in chambers, but we will have to consult the
15 Charter.

16 MR. TAVENNER: I would like to ask just one
17 or two other questions.

18 BY MR. TAVENNER (Continued):

19 Q When you compiled this record in March of
20 1947, what did you do with the one that you based
21 this new record on?

22 A I used this as reference.

23 Q What did you do with it after you used it
24 as reference?
25

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1 A They are now at the office -- the Foreign
2 Office.

3 THE PRESIDENT: I think you ought to follow
4 it up, Mr. Tavenner.

5 Q Who prepared this record that you referred
6 to?

7 A As I said before, I believe that this was
8 compiled by my -- the person who preceded me in this
9 post.

10 Q Will you give me some further description
11 of it so that I could be able to identify it by that
12 description if you were to show it to me?

13 A The document was prepared sometime before
14 that time, and these records were classified accord-
15 ing to categories. I believe it was prepared during
16 the time my predecessor occupied the office, and this
17 was based on that document on which -- Documents
18 which had been lost are checked.

19 THE PRESIDENT: You might get enough infor-
20 mation on which to base a summons to produce these
21 documents, under the Charter.

22 Q Is the document in a bound volume?

23 A It is a small book with green cover.

24 Q Does it have a descriptive title on its
25 back?

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1 A I don't recall definitely, but I believe
2 that it had -- it was a list or register of docu-
3 ments according to classification.

4 MR. FURNESS: If the Court please, the
5 witness hasn't refused to produce this. He
6 offered to produce one register which the Prosecu-
7 tor asked him to produce, and he hasn't refused to
8 produce this one.

9 THE PRESIDENT: Ordinarily an official of
10 this kind insists on a summons. The department, of
11 course, could waive that if they wish.

12 MR. TAVENNER: I have a very simple solu-
13 tion to suggest, your Honor. If there is no objec-
14 tion, as indicated by counsel, when this witness
15 leaves the stand let him return to his office and
16 there deliver to an investigator of the prosecution
17 the document and return herewith.

18 THE PRESIDENT: I understood you to say,
19 witness, that the witness before you is your
20 predecessor?

21 THE WITNESS: The witness who appeared --
22 who took the stand before I did was the person
23 preceding my immediate predecessor, that is, the
24 one before the one before me.

25 THE PRESIDENT: Who is your immediate

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1 predecessor?

2 THE WITNESS: SHIMODA, Takezo.

3 THE PRESIDENT: The cooperation of all
4 three might be sought to get the document.

5 MR. FURNESS: If they are to be produced
6 I prefer to have them produced before this Tribunal
7 rather than to an investigator for the prosecution.

8 THE PRESIDENT: That means a summons based
9 on information obtained here. Any command from the
10 Tribunal will be in the form of a summons.

11 BY MR. TAVENNER:

12 Q What is the address of your immediate
13 predecessor in office?

14 A I don't remember his address.

15 Q Why did you consider it necessary to prepare
16 a new record if the record of your predecessor was
17 in existence?

18 A I had learned from one of the members of
19 my section that he wished -- he had a desire to
20 complete the records which were prepared by my
21 predecessor, and I also had a desire to do so. I
22 said that my predecessor had prepared these records,
23 but I don't recall exactly whether it was my immedi-
24 ate predecessor or the one before him, or whether
25 a member of the section had in the meanwhile made

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1 revisions or additions to the record after I became
2 chief of the section. These facts are not here in
3 my mind.

4 Q You have no personal knowledge, Mr. HAYASHI,
5 do you, of whether or not the telegrams referred to
6 as having been sent by the Japanese ambassador, SAITO,
7 at Moscow were or were not received by the Foreign
8 Minister?

9 A No, I have no direct personal knowledge.

10 MR. TAVENNER: No further questions.

11 THE PRESIDENT: The witness perhaps could
12 be stood down to produce the records he has referred
13 to. If they are voluntarily produced there will be
14 no need for a summons.

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1 MR. TAVENNER: If the Tribunal please,
2 unquestionably the records will be in Japanese.
3 It would result in a great saving of time if he will
4 present them to the Secretariat of the Court where
5 we may examine them and then recall him for further
6 cross-examination, if it is desired.

7 THE PRESIDENT: That could be done. He
8 will have to get the consent of his department. We
9 know that he hasn't the right to produce records with-
10 out a summons or the authority of his department. So
11 far the department has not been insisting on summonses.
12 We have seen enough records here to realize that.

13 Well, what about it, Major Furness?

14 MR. FURNESS: I have no objection. I would
15 like to point out that in most of the records which have
16 been produced before this Court, the certificate has
17 been signed by this witness. I think the witness
18 must know what he is expected to produce. I suppose
19 that would be revealed by the record.

20 THE PRESIDENT: He will be expected to
21 produce every register or other document which shows
22 what became of these border incident papers. That
23 will be within the scope of his affidavit.

24 MR. FURNESS: Well, I of course reserve
25 any redirect examination until the cross-examination

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1 is completed.

2 THE PRESIDENT: You understand what is
3 required, witness?

4 THE WITNESS: Yes.

5 THE PRESIDENT: You are stood down and are
6 at liberty on the usual terms until those documents
7 are made available to the Secretariat, that is to say,
8 to the General Secretary of the Tribunal.

9 (Whereupon, the witness was excused.)

10 MR. FURNESS: I now offer in evidence
11 defense document No. 1574, with certificate signed by
12 the Chief of the Document Section of the First
13 Demobilization Bureau.

14 THE PRESIDENT: General Vasiliev.

15 GENERAL VASILIEV: If the Tribunal please,
16 I object to this document. It is an inadmissible and
17 I venture to say contested method of proof. The
18 Japanese official has to certify the fact of the
19 destruction of the document in such a way that on
20 one hand it is clear that these documents do not exist,
21 and, on the other hand, it is known and apparently
22 there are no doubts, that these documents did exist,
23 and, moreover, the contents are given.

24 THE PRESIDENT: These certificates as to
25 the contents of documents not produced, alleged to

1 have been lost, must be on oath if that is insisted
2 upon by the prosecution, and, if the prosecution
3 insists, the deponent must be called for cross-
4 examination.

5 GENERAL VASILIEV: That is our desire, your
6 Honor.

7 MR. FURNESS: If the Court please, as I
8 recollect the presentation of the prosecution's
9 case for the Soviet Union, many documents were accepted
10 in evidence on just such a certificate as this, that
11 it did not exist.

12 THE PRESIDENT: I don't recollect any objection
13 or argument about such a matter on that particular
14 point.

15 MR. FURNESS: I am not sure it was an objection,
16 but I am sure just such a certificate as this was
17 received in evidence, signed by this very man.

18 THE PRESIDENT: Well, there is no signature
19 on our copies and besides it wouldn't matter if there
20 were.

21 MR. FURNESS: I believe that I could find
22 the certificate in evidence in the record produced
23 by the Soviet Union which might cover these very
24 documents.

25 THE PRESIDENT: I stress again that this

1 certificate purports to certify to the contents of
2 the lost document, the burned document. If there
3 is such a certificate in the Russian phase offered
4 by the prosecution, I don't recollect any objection
5 to it on that ground.

6 MR. FURNESS: Without looking at the record,
7 your Honor, I could not rely sufficiently on my
8 memory to say whether there was an objection or not.

9 GENERAL VASILIEV: I can positively state
10 that there were no such certificates in the Russian
11 phase of the prosecution, However, Mr. Furness could
12 have searched for them.

13 MR. FURNESS: I will search during recess,
14 your Honor. In the meantime this tender is rejected
15 as I understand it.

16 We now offer in evidence defense document
17 No. 1540. This document is from the Diary of M.
18 Litvinov, Commisar for Foreign Affairs of the Soviet
19 Union, and records the talk he had with Mr. SHIGEMITSU,
20 Japanese Ambassador in Moscow, on July 20, 1938.
21 Excerpts from this record were introduced by the
22 prosecution into evidence as exhibit 754, and read
23 on pages 7760 to 7763, with comments by the prosecution
24 interspersed between each excerpt.

25 The entire record is now offered so that the

1 Tribunal may have a truer picture of this conference.

2 THE PRESIDENT: Admitted on the usual terms.

3 CLERK OF THE COURT: Defense document

4 1540 will receive exhibit No. 2633.

5 (Whereupon, the document above
6 referred to was marked defense exhibit
7 No. 2633 and received in evidence.)

8 MR. FURNESS: It is offered to show that
9 the Japanese Ambassador acted under instructions from
10 his government; that is was admitted by the People's
11 Commisar that the map might not have been published,
12 and that from the beginning the Japanese position was
13 that both parties should return to the status quo
14 ante prior to the occupation of the hill by Soviet
15 troops and then a decision as to where the border
16 was located could be made peacefully; whereas the
17 Soviet side claimed the right to continue to occupy
18 the hill.

19 Since this document states the position of
20 both parties, from the viewpoint of the People's
21 Commisar, I believe that it should be read as an
22 entire document rather than an excerpt divorced from
23 that context. I will point out the parts read by
24 the prosecutor. The first two speeches are not of
25

1 importance. The first six paragraphs were read by
2 the prosecutor.

3 (Reading):

4 "SHIGEMITSU: On July 11, the Soviet troops
5 unexpectedly occupied the Changkufeng district west
6 of Lake Changchi and began to fortify it. In view
7 of this on July 15 Charge d'Affaires NISHI made a
8 protest to Mr. Stomonyakov and demanded that an
9 immediate evacuation of the Soviet troops from that
10 district be effected. Stomonyakov declared the
11 protest groundless and declined it on the basis of the
12 Khunchun Agreement and the maps attached to it.

13
14 "On having studied the question again the
15 Imperial Government wired me and instructed to state
16 the following:

17 "According to the data founded on the agree-
18 ments between China and Russia, establishing the border
19 in this region, and likewise according to the data
20 of the Zarist regime which are at the disposal of
21 the Manchurian Government, this region belongs to
22 Manchukuo. Besides, in the Khunchun Agreement
23 mentioned by Mr. Stomonyakov, it is said, that from
24 letter 'T' the frontier runs north-west, follows the
25 line of the mountains on the western side of Lake
Khasen, and reaches the northern end of the sandy

1 ridge, etc.

2 "Therefore it is clear that the western coast
3 of Lake Changchi forms the border.

4 "The fact that the Manchurian population have
5 their religious rites on this mountain is another
6 proof of this area being Manchoukuo possession.

7 "It follows from the above that there is no
8 doubt whatsoever that the territory belongs to
9 Manchoukuo and the Japanese Army in virtue of its
10 obligations to Manchoukuo might take measures ensuing
11 from these obligations."

12 The following is not read. It is not part
13 of the excerpts printed in English in exhibit 754.

14 THE PRESIDENT: I think we will recess now
15 to enable you to get this in order. We will recess
16 for fifteen minutes.

17 (Whereupon, at 1445, a recess was
18 taken until 1500, after which the proceedings
19 were resumed as follows:)
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MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Well, have you looked in the record to see whether we allowed a similar document to that just objected to by the Russians?

MR. FURNESS: Referring to record page 8075, on which page was recorded the receipt in evidence of exhibit 831. The certificate reads:

"Aug. 7, 1946.

"The undersigned does hereby certify that it is impossible to submit you the following documents, as they are not in our possession now.

"1.) All the files of 1st and 2nd Departments of Japanese General Staff bearing upon the planning of war against the USSR. (Otsu and Kan-Toku-En Plans).

"2.) The correspondence of the General Staff and the War Ministry of Japan with the Headquarters of Kwantung and Korean Armies on the question of military preparation of Japan for a war against the Soviet Union."

THE PRESIDENT: That describes the documents without stating their contents. In any event, was there an objection, Major Furness?

MR. FURNESS: No, your Honor, there was not.

1 I think we must have been discouraged from object-
2 ing because we were overruled so often.

3 I will continue reading the exhibit which
4 has just been introduced in evidence:

5 "The Soviet has always proclaimed its
6 efforts for peace and maintenance of the status quo
7 in the border region. But the fact that the Soviet
8 side has occupied the region referred to appears
9 to be a violation of the status quo, the respons-
10 ibility for which falls on the Soviet side.

11 "I cannot but desire that the Soviet side
12 take steps to restore the status quo, because the
13 actions of the Soviet troops place the responsibility
14 on the Soviet Government. I do not wish to say that
15 the border must be accurately demarcated now on the
16 basis of the data of Manchoukuo alone. I think
17 that such determination must be made in the future
18 on the basis of the data which both sides have at
19 their disposal.

20 "The demand of the Japanese Government to-
21 day is only immediate evacuation of the Soviet troops
22 from the Changkufeng area and restoration of the
23 situation which existed until July 11, so that
24 tranquility may be restored on the border in this
25 region. The Japanese Government is giving this

1 presentation of today the attention which it de-
2 serves."

3 This was not read by the prosecution.

4 "During his conversation with NISHI,
5 Stomonyakov presented quite official documents:
6 the Khunchun Agreement and the maps attached to it,
7 on which the frontier is defined quite clearly.
8 These maps are signed by the Chinese representatives.
9 On this map the frontier runs west of Lake Khasan,
10 which you call Chang-Chi. It seems to me that the
11 presentation of these documents should have put an
12 end to all sorts of talk on the subject, and I was
13 glad to learn from the Ambassador that the Japanese-
14 Manchurian party had studied all the documents and I
15 expected to learn from him that the Japanese-Man-
16 churian party had come to the same and only possible
17 conclusion, that the lake and the adjacent hills
18 belong to the Soviet Union. Unfortunately, the
19 Japanese Government insists upon its previous in-
20 correct viewpoint. The Ambassador has mentioned
21 certain data, yet he did not say what data they were.
22 He has mentioned certain religious rites which can-
23 not be checked upon by anybody. We know and have
24 always considered the hill in question to be on the
25 Soviet side of the frontier. Our border guards

1 always discharged their duties there. Therefore we
2 must categorically decline every protest and demand,
3 because we are dealing with the Soviet territory,
4 and no claims on it of another power are acceptable."

5 The prosecution stopped reading at that
6 point.

7 "The Ambassador is quite right in saying
8 that we are interested in maintaining tranquility
9 on the border and in the maintenance of the status
10 quo, and our troops on the hill in question, that
11 is, our border."

12 The prosecution read "the next two sent-
13 ences.

14 "The Ambassador has mentioned certain
15 data, that both parties have. We presented our
16 data to the Japanese Embassy represented by NISHI.
17 I am ready to present them also to the Ambassador.
18 If the Japanese party produce their data, we are
19 willing to study them, but so far we have only
20 heard unfounded statements and groundless demands."

21 This was not read, the next paragraph.

22 "I must again emphasize that we sustain
23 the viewpoint which Comrade Stomonyakov took. The
24 tranquility can be violated only by the other side --
25 the Japanese-Manchoukuoan side, and in such case it

1 will bear responsibility for this and its conse-
2 quences. Our troops, wherever they may find them-
3 selves, do not menace other governments, nor foreign
4 territories.

5 "My opinion is that the Japanese government
6 will not be satisfied with your reply. Firstly, you
7 are speaking about the map as serving as a legal
8 basis of the argument, but the map, which Mr.
9 Stomonyakov showed to MISHI, had never been pub-
10 lished, and, to my mind, at this critical moment
11 speaking of some map is unreasonable. This will
12 not complicate matters."

13 MR. FURNESS: The following was not read
14 by the prosecution:

15 "According to the text of the Khunchun
16 Agreement, the border runs northeast and by the
17 west coast of Lake Chang-Chi. This is perfectly
18 clear from the Russian and Chinese texts. If we
19 are to talk later of an accurate establishment of
20 the border, and if we decide to begin such demar-
21 cation of the border, then this question will be
22 decided on the basis of maps, which both sides have
23 at their disposal, and in such case, we would be
24 able to send for necessary maps. But the question
25 now stands like this, that, by virtue of time-

1 honored usages, in that region and data of Man-
2 choukuo, Manchoukuoans are convinced that the
3 region in question is actually Manchoukuoan terri-
4 tory. Therefore I would place hope in your states-
5 manship to take measures to restore tranquility on
6 the border, and, that, to co-operate in relaxing
7 the tension which has been created on the border,
8 and this is only possible on condition that the
9 situation which existed in this region until July 11
10 be restored.

11 "So this I would like to add: that the
12 restoration of the status quo does not bring any
13 loss at all to the Soviet side.

14 "With regard to your desire, which you
15 have again emphasized, concerning the interest in
16 maintaining the status quo on the border, I wish
17 to remark that it was violated by actions of the
18 Soviet side. Soviet troops began operations in
19 this region and the building of fortifications.
20 Having an obligation to Manchoukuo for co-defense,
21 Japan can at any time take actions which she con-
22 sider necessary to resort to in circumstances
23 that may arise. To this I must remark that the
24 Japanese side considers the actions of the Soviet
25 troops as a provocative act. We do not stand on

1 the viewpoint that the border must be established
2 right now on the basis of Manchoukuoan data alone.
3 In the present case, we appeal to your statesman-
4 ship in order to relax the tension, observed on the
5 border, to restore tranquility and the situation
6 which existed until July 11.

7 "I should like to underscore especially
8 this side of the question and to request you to pay
9 attention to what I have said."

10 MR. FURNESS: The next sentence was read
11 by the prosecution:

12 "I must say I am greatly surprised at hear-
13 ing you, an old and experienced diplomat, speaking
14 so slightly about official maps and called them
15 'some maps'. You must know that these maps are the
16 only means of establishing frontiers."

17 MR. FURNESS: The following was not read by
18 the prosecution:

19 "It surprises me that you want to blame
20 the map, declaring that it was not published. I
21 do not know whether it was published or not. Even
22 if it was not published, it did not, from this fact,
23 cease to exist. It is especially strange to hear
24 such a statement from the representative of Japan,
25 which has by no means published all her treaties

1 concluded by her with other countries, and has not
2 a few secret agreements; but, because of this, these
3 agreements do not lose their force in the mutual
4 relations between the parties of such agreements.

5 "Copy of this map must be in the possession
6 of the Manchoukuoan Government. If the Ambassador
7 can not acquaint himself with it, it is undoubtedly
8 possible for the Japanese representative in Manchou-
9 kuo to acquaint himself with it and to be convinced
10 that the protests and demands of the Japanese side
11 in this question are absolutely unfounded."
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1 "Comrade Stomonyakov read to Mr. NISHI excerpts
2 from the Khunchun Agreement which read that the border
3 runs by the mountains on the western side of Lake
4 Khasan. Well, this agreement exists. What can you pre-
5 sent against this agreement? Without presenting any
6 other document, the Japanese side brings in an unfounded
7 demand of evacuation of Soviet troops from Soviet terri-
8 tory. It is like this: In the meantime you go out,
9 and we leave later. What would the Japanese Government
10 reply, if it were told that your troops find themselves
11 in such and such a place on Manchoukuoan territory,
12 but we consider their presence there incorrect; evacuate
13 your troops from there, and then we shall examine to
14 whom this territory belongs?

15 "I must also resolutely protest against the
16 Ambassador's words about provocative acts from the Soviet
17 side. There is nothing provocative in Soviet troops
18 occupying this or other points in the territory belong-
19 ing to us. On the contrary, groundless demands of a
20 foreign Government on evacuation of these troops must
21 be considered a provocation. We have not violated
22 any tranquility on the border, we have not attacked
23 anybody, we have not occupied any foreign territory,
24 and therefore, complete tranquility is maintained on
25 the border, and it will be maintained while it is not

1 violated by the Japanese-Manchoukuoan side.

2 "I have hope of the wisdom of the Japanese
3 Government that it will try to estimate beforehand the
4 consequences likely to result in case of possible
5 attempts to violate the existing tranquility on the
6 border.

7 "That is all I can say in this regard, and
8 there is probably no sense in continuing the dispute.

9 "If the Ambassador presents some other map
10 different from ours, we will study it.

11 "I wish to avail myself of this opportunity
12 to call the attention of the Ambassador to an event of
13 which our representative in Tokyo has already reported
14 to the Commissariat for Foreign Affairs.

15 "A few days ago there was a disturbance near
16 the Soviet Embassy on the part of a certain group. It
17 distributed provocative leaflets in the vicinity of
18 the Embassy. Although there is always a considerable
19 police force at the Embassy building which stops every-
20 body entering and leaving there, it did nothing this
21 time in order to prevent this group from penetrating
22 into the compound of the Embassy.

23 "I think that the Ambassador, like myself, is
24 interested in keeping quiet and normal conditions of
25 work in our Embassy in Tokyo as well as in the Japanese

1 Embassy in Moscow, and that he will call, in my name,
2 the attention of the Japanese Government to this sad
3 event, so that scrupulous examination and search for the
4 guilty will be made and also measures for prevention of
5 such actions in future will be taken.

6 "SHIGEMITSU: I cannot summarily give my reply
7 to your statement.

8 "I do not say whether this map is false or
9 authentic. I stated only that it had never been pub-
10 lished. I desire to emphasize this very matter. I
11 think that all maps can be inspected when demarcation of
12 the border comes into question. I can add here that
13 this map does not correspond to the Khunchun Agreement.
14 At least in that part which was quoted by Stomonyakov
15 to NISHI, as it is said in the quotation that the border
16 runs by the west side of the lake, and not to the west
17 of it. In a word, I can say only that the place where
18 this incident happened is, according to the deep con-
19 viction of the Manchoukuoan Government, territory
20 belonging to Manchoukuo. In this there is no doubt
21 whatsoever."

22 The following sentence was read by the prosecu-
23 tion.

24 "Therefore Japan has the right and obligations
25 to Manchoukuo to use force in order to make the Soviet

1 troops evacuate from the territory of Manchoukuo, un-
2 lawfully occupied by them."

3 The following sentences were not read.

4 "To such deduction we must come. It is clear
5 that the incident occurred as the Soviet side invaded
6 the Manchoukuoan territory, and the proposal which I
7 make is not to touch upon the juridical side of the
8 question now, but to concern ourselves only with restora-
9 tion of the status quo on the border. As tranquility
10 on the border, however, has been violated by the Soviet
11 side, it seems to me that nothing else remains but to
12 take measures which we consider necessary for restor-
13 ation of our rights.

14 "In connection with this, I present a protest
15 against murder of a Japanese soldier. This happened
16 at the time when a few Japanese gendarmes were fired
17 upon and one of them, a young corporal, I think named
18 MATSUSHIRA is now missing. It must be assumed that he
19 was killed at the time they were fired upon by Soviet
20 troops in the region unlawfully occupied by Soviet
21 detachments on July 11. I express my special regret
22 in this regard, that this unlawful murder took place
23 at such an important moment, when negotiations were being
24 conducted concerning the whole incident.

25 "I am authorized to tender a resolute protest

1 and to reserve to myself the right to present in future
2 concrete demands connected with this event.

3 "LITVINOV:" This was read by the prosecution."

4 "The Ambassador has not said anything new.
5 The only new thing was that he threatened us with force.
6 The Ambassador evidently considers the tactics of
7 threats a sound diplomatic means. Unfortunately,
8 there is quite a number of countries that are susceptible
9 to being frightened and threatened, but the Ambassador
10 must know that this means cannot be successfully used
11 in Moscow."

12 The following was not read.

13 "Regarding the murder of the soldier, I must
14 refuse the protest, as this took place on Soviet terri-
15 tory, where Japanese gendarmes had no right to be. I
16 can only present a counter-protest to the crossing of
17 our border by the gendarmes. With this I conclude.

18 "When going out, SHIGEMITSU addressed Comrade
19 Litvinov in English with a request to receive him for a
20 general talk."

21 The fact that Japanese gendarmes had been
22 fired upon was shown in an exhibit introduced by the
23 prosecution.

24 This is my running comment on exhibit 753,
25 prosecution document 2242. I read from paragraph --

1 from the last paragraph on page 1 of exhibit 753,
2 prosecution document 2242;

3 "Beginning from July 1938, the Japanese began
4 concentrating large forces in the area of the Lake
5 Hassen. Up to July 29, 1938, these forces systematical-
6 ly violated the U.S.S.R. border in this area, but each
7 time the Japanese were driven out from our territory.
8 On July 15, 1938, on the southern slopes of the
9 Zaozernaya Hill a group of Japanese gendarmes violated
10 the border and penetrated deep into our territory.
11 Our frontier guards opened fire and as a result one
12 gendarme was killed on our territory and the corpse was
13 taken by us."

14 THE PRESIDENT: That is marked as having been
15 read by the prosecution.

16 MR. FURNISS: I now offer in evidence defense
17 document No. 1567. This is a telegram from Charge
18 D' Affaires, American Embassy, Moscow, to the Secretary
19 of State, quoting the communique published in Moscow
20 morning papers on July 21, 1938.

21 THE PRESIDENT: General Vasiliev.

22 GENERAL VASILIEV: I think there is no need
23 to introduce this document after the full text of the
24 talk between Livinov and SHIGEMITSU of July 20 has
25 been just received in evidence. The document contains

1 repetition of the previous document.

2 MR. FURNESS: I do not intend to read it. It
3 is in some cases different.

4 THE PRESIDENT: But it is of no value because
5 it purports to be a summary of what passed between the
6 two representatives, and you have read all that.

7 MR. FURNESS: It is not a copy. As I say,
8 I do not intend to read it.

9 THE PRESIDENT: But why have it in the record?

10 MR. FURNESS: I will withdraw the tender, then.

11 I now offer in evidence defense document
12 No. 1562, a telegram from the American Charge d'affaires
13 to Secretary of State, dated July 26, 1938, in which
14 he reports a conversation he had on the night before
15 with Litvinov. This is offered to show that the Soviet
16 Government knew that Japanese military authorities
17 were opposed to precipitating hostilities.

18 THE PRESIDENT: General Vasiliev.

19 GENERAL VASILIEV: If the Tribunal please, I
20 object to the introduction of this document. It is a
21 report of a third party who did not witness the fact
22 directly concerning the Khasan Lake event. It should
23 not have any probative value in this Tribunal. By this
24 document the defense opens the introduction of a whole
25 series of documents emanating from third powers.

1 THE RUSSIAN MONITOR: From the representatives
2 of the third powers.

3 GENERAL VASILIEV: However, these reports
4 inevitably contain elements of opinions and conclusions
5 of the third party who is the author of the report.
6 If the report of the representative of this third
7 power is admitted then it will be a precedent to intro-
8 ducing to the Tribunal opinions and conclusions of the
9 representatives, let us say, of France, Sweden, Great
10 Britain, et cetera. And this report gives nothing new
11 to us.

12 The official attitude of the Soviet Govern-
13 ment is given in the record of the conversations
14 between former Commissar for Foreign Affairs of the
15 U.S.S.R. Litvinov and SHIGEMITSU, which the Tribunal
16 have at their disposal. Therefore, I ask you to reject
17 the document.

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1 MR. FURNESS: If your Honor please, certainly
2 the fact that this is a statement by a representative
3 of a third party is no bar to its admissibility. It is
4 at least in the same class as innumerable other documents
5 offered by the prosecution; statements by diplomats,
6 conversations they had with other persons.

7 It is in no sense self-serving, and it
8 seems to me that it clearly should be admitted. It
9 reports a conversation with the Foreign Minister of the
10 Soviet Union.

11 THE PRESIDENT: What value is it to you, Major
12 Furness? I can't see that it has any value at all. It
13 is based on a conversation of which we have every word.

14 MR. FURNESS: No, sir, I think it is based on a
15 conversation with Kirk, the Charge d'Affaire.

16 THE PRESIDENT: But it does arise out of con-
17 versation.

18 MR. FURNESS: No. The telegram is dated
19 July 26, and it says "In the course of a conversation
20 last night."

21 THE PRESIDENT: Well, suppose Litvinov tells
22 the world what he said to SHIGEMITSU. Is there any dif-
23 ference?

24 MR. FURNESS: In this case he said that he was
25 informed that the Japanese military authorities were

opposed to participating in a conflict with the Soviets.
1 It is very obvious that it is an entirely different
2 conversation.

3 THE PRESIDENT: It is a conversation about
4 another conversation.

5 MR. FURNESS: No, sir. I think it is clearly
6 evident that it is what Litvinov told Kirk in the course
7 of a conversation with him.

8 THE PRESIDENT: How would it help you? I
9 can't see what assistance you get from it.

10 MR. FURNESS: It helped the general defense in
11 the sense that Litvinov said that he had been informed
12 that the Japanese military authorities were opposed to
13 participating in a conflict with the Soviets.

14 They are accused of having used this incident
15 as aggressive war, and as having planned aggressive war
16 throughout this period.

17 THE PRESIDENT: Well, it is still reporting a
18 conversation with the Japanese. It doesn't seem to me
19 to go any further than that.

20 MR. FURNESS: I submit, sir, that it is Litvinov
21 talking to Kirk, not talking to any Japanese.

22 THE PRESIDENT: I am not contesting its rele-
23 vancy but its materiality. I don't see that it helps.
24 Perhaps, if we are in doubt, we ought to admit it. That
25

is the rule.

Admitted on the usual terms.

CLERK OF THE COURT: Defense document 1562 will receive exhibit No. 2634.

(Whereupon, the document above referred to was marked defense exhibit No. 2634 and received in evidence.)

MR. FURNESS: I read exhibit 2634, a telegram from Moscow, July 26, 1938.

"Secretary of State.

"In the course of a conversation last night Litvinov discussed briefly the present Soviet-Japanese controversy. He said that the Soviet soldiers had every right to occupy the position to the west of Lake Khasan, that maps of long standing in the possession of Soviet Government proved definitely the Soviet contention and that, therefore, there was no reason why the soldiers should be withdrawn as the Japanese had requested. However, he said that he did not believe that this incident would result in hostilities, that the Soviet Union had no intention of 'attacking' the Japanese and that he was opposed to precipitating a conflict with the Soviets. Litvinov added that he had told the Japanese Ambassador that he would examine any proofs

1 of the Japanese contention that the Ambassador might
2 care to submit and that he supposed that the Japanese
3 Government was now working on further representations to
4 the Soviet Government which would encourage some adjust-
5 ment of the controversy."

6 I offer in evidence defense document No. 1522.
7 This is also from the diary of Commissar Litvinov and
8 records conversations with SHIGEMITSU on 4 August
9 1938.

10 It is offered to prove that the Japanese Govern-
11 ment proposed an immediate cessation of hostilities
12 on both sides and the settling of the matter through
13 diplomatic negotiations, but that the Soviet Government
14 again refused to consider any discussion of the boundary
15 and insisted that its opinion was the only opinion
16 which might be considered.

17 This is also offered to prove the Japanese
18 contention that the Russian claim of a border passing
19 over the summit of a hill did not give that country the
20 right to claim the entire hill.

21 No record of this conversation was introduced
22 in evidence by the prosecution.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Defense document 1522
25 will receive exhibit No. 2635.

1 (Whereupon, the document above re-
2 ferred to was marked defense exhibit No. 2635
3 and received in evidence.)

4 MR. FURNESS: Now I read the document.

5 "SHIGEMITSU declared that in accordance with
6 instructions received he had to make a report regarding
7 a border incident.

8 "The Imperial Government, stated SHIGEMITSU,
9 was making every possible effort to regularize the
10 situation at the border and to settle the incident
11 on the spot. In accordance with instructions from Tokyo,
12 he wishes to make a proposal which amounts to immediate
13 cessation of hostilities on both sides and settling of
14 the matter in diplomatic negotiations. If the Soviets
15 interposed no objections, the Japanese Government was
16 prepared to embark upon concrete negotiations. He,
17 SHIGEMITSU, would like to know the views of the Soviet
18 Government.

19 "I answered SHIGEMITSU as follows:

20 "The Ambassador declared that the Imperial
21 Government intended to settle the incident peacefully,
22 but, unfortunately, the acts of the Japanese military
23 forces on the spot did not conform with this intention.
24 It is simply not possible to consider as a peaceful
25 settlement of the problem the crossing of the Soviet

border with arms and with the use of artillery or the
1 night attack on a border post. To call such methods
2 peaceful could only be in irony. The incident itself
3 occurred as a result of these actions and without
4 them there would have been no incident at all. We were
5 not the ones who started the military actions. We merely
6 replied to such actions on the part of the Japanese. If
7 they will desist from their actions, definitely evacuate
8 Soviet territory and cease firing upon it, our military
9 will have no grounds whatsoever for continuing military
10 operations. Then we of course should not object to a
11 consideration of the proposals made to us by the Japanese
12 Government. But first of all the inviolability of the
13 Soviet boundary as fixed by the Hunchun Agreement and
14 the map attached thereto must be guaranteed.

15
16 "SHIGEMITSU said that he had not intended today
17 to discuss responsibility for the events or to deal
18 with the matter of the boundary in this connection.
19 Unfortunately, SHIGEMITSU said, last time we were not
20 agreed on these matters and for that reason I did not
21 want to broach these subjects again today. But, now
22 that you have brought up this question, too, I must
23 answer briefly. The incident arose by virtue of the
24 unexpected seizure by the Soviets of Changku Feng,
25 which was considered Manchurian territory. In consequence

1 of this, the Soviet side fired on Japanese soldiers
2 and killed one person. The continuation of this occupa-
3 tion was the cause of the present conflict. The Japan-
4 ese have repeatedly called the attention of the Soviet
5 Government to the fact that the Soviet side must bear
6 the responsibility for this. Furthermore, the Soviets
7 began firing on the boundary and the territory of
8 Manchoukuo and Japan with the aid of aviation and
9 artillery. From this it is clear who is responsible
10 for the situation that has developed on the border.
11 In this connection the Japanese Government entered
12 protests.

13 "The Soviets consider that the boundary line
14 is defined by the Hunchun Agreement and the map attached
15 thereto. The Japanese, however, relying upon materials
16 in their possession, hold that Changku Feng is Manchurian
17 territory. This may be proved by historical data. In
18 short, each side holds to its own view in this matter.
19 Hence there is no reason for the Soviets, relying solely
20 on their own data, to demand the withdrawal of troops from
21 a point which they consider their own. From their
22 point of view, the Japanese were insisting on the cessa-
23 tion of military operations against the boundary and
24 territory of Manchoukuo.
25

"I told SHIGEMITSU that I agreed with him that

1 it did us no good to repeat the quarrel we had last time
2 if the Japanese had not changed their views. We hold
3 that boundaries between states are determined exclusively
4 by international treaties and maps and not at all by the
5 subjective views of governments, military circles or
6 unofficial data. Herein lay our advantage over the
7 Japanese. We showed the Japanese the relevant inter-
8 national treaties and maps and the Japanese showed us
9 nothing except their wish to acquire a new boundary. I
10 was willing to conduct a conversation on a purely
11 practical business basis. We should welcome the cessa-
12 tion of military operations, for that accorded with our
13 peaceful intentions. But we cannot permit foreign mili-
14 tary units to occupy even one foot of territory which
15 we consider indisputably ours. If, therefore, the
16 Japanese Government will withdraw the remainder of
17 its units still beyond the line marked on the map and
18 if the Japanese Government will pledge itself to desist
19 from firing on our territory, then I am certain that
20 my Government, too, will agree to a similar pledge to
21 cease military operations, for such operations would
22 be utterly without purpose. We have no need of Manchurian
23 territory. Even the Japanese should have convinced
24 themselves after the seizure by might of Zaozernaya
25 Heights that no fortifications whatever had been

constructed there by us and no preparations whatsoever
1 had been made for attacking Manchuria. This was my
2 answer to the Ambassador's proposal.

3 "SHIGEMITSU said that he understood my answer
4 to mean that the Soviets were agreeable to a practical
5 settlement of the unfortunate incident. That conformed
6 to the intentions of the Japanese Government. As for my
7 remarks about international treaties and maps, he,
8 SHIGEMITSU, had never disputed the validity of inter-
9 national treaties. Speaking of the boundary between
10 Manchoukuo and the Soviet Union, however, it was
11 necessary to take into account those facts which Man-
12 choukuo had /come into possession of/ since its separation
13 from China. It is also necessary to consider the
14 interpretations of the Hunchun Agreement. All in all,
15 he, SHIGEMITSU, doubts whether it is wise to settle
16 the incident exclusively on the basis of a line on a
17 map when the situation was quite tense without that.
18 The Japanese had /only/ seen your map for the first
19 time. This was the first time many others, too, had seen
20 this map. The Japanese do not assert that the map is
21 inaccurate, but they consider it unreasonable to resolve
22 the incident on the basis of this map which it has
23 seen for the first time. My proposal, said SHIGEMITSU,
24 consists in not linking the settlement of the incident
25 with the map.

1 "The matter of the map and the treaty the
2 Japanese are prepared to consider separately from the
3 regulation of the incident. Right now the discussion
4 dealt with the practical settlement of the incident
5 without linking it with the legal side of the matter.
6 The proposal of the Japanese Government amounted to
7 inaugurating concrete pourparlers on the spot after
8 ceasing hostilities. In this case without going into
9 the juridical matter of the boundary it would be pos-
10 sible to find means of settling the incident with the
11 provision that the juridical questions be considered
12 later. In passing, he, SHIGEMITSU, wished to say a
13 few words regarding my remark that the USSR harbored
14 no intention of attacking Manchoukuo. He welcomed such
15 a declaration, but had to observe that my declaration
16 did not accord with the facts. Even from the Soviet
17 point of view the boundary line passed through the
18 elevation /vysota/ of Changkufeng. The occupation
19 of this height is not to be reconciled with a lack
20 of Soviet intention to attack Manchoukuo. Further-
21 more, after the outbreak of the incident, Japanese
22 gendarmes, who are not in the strict sense of the word
23 a military force, were fired upon on the slope of the
24 hill belonging to Manchoukuo and one gendarme was
25 killed. This he, SHIGEMITSU, stated in passing. He

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23 a military force, were fired upon on the slope of the
24 hill belonging to Manchoukuo and one gendarme was
25 killed. This he, SHIGEMITSU, stated in passing. He

1 did not wish to worsen the atmosphere and proffered a
2 reasonable and practical proposal concerning the settle-
3 ment of the incident. On hearing from me an agreement
4 in principle for the regulation of the incident he
5 would like the Soviets to take a step toward the
6 practical settlement of the incident.

7 "I told SHIGEMITSU that our boundary with
8 the Chinese Empire was determined by the agreements
9 that we entered into with representatives of that
10 empire. We consider that boundary also the boundary
11 between us and Manchoukuo and Korea. The occupation of
12 Manchuria by Japanese troops does not give Japan the
13 right to demand an alteration of the boundary. We
14 have in any case never agreed to such an alteration
15 or revision of the boundary, and never would. It is
16 not our fault if Japan on occupying Manchuria failed
17 to see these or other agreements and maps signed by us
18 and China which the legal masters of Manchuria should
19 have. We showed the Hunchun Agreement and map to
20 Mr. NISHI and later to the ambassador himself. The
21 ambassador might have requested the delivery of a copy
22 of the agreement and map for study by his government.
23 Instead of that, the Japanese military preferred the
24 road of direct action and violated this boundary.
25 The status quo must be restored. My agreement to a

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21 ambassador might have requested the delivery of a copy
22 of the agreement and map for study by his government.
23 Instead of that, the Japanese military preferred the
24 road of direct action and violated this boundary.
25 The status quo must be restored. My agreement to a

1 cessation of military operations should be understood
2 by the ambassador in the sense that the Japanese
3 Government obligates itself to withdraw immediately
4 its troops back of the line shown on the map, not to make
5 further attacks on Soviet territory, and not to fire
6 upon this territory. At the moment I am notified
7 by the ambassador of the acceptance by his government
8 of these terms, the agreement on the cessation of
9 military operations will go into effect. Then we are
10 prepared to give the ambassador a photocopy of the
11 agreement and map for study and for transmittal of the
12 necessary instructions to the local authorities regard-
13 ing the respect of this boundary.

14 "SHIGEMITSU stated that the Japanese point
15 of view regarding the agreement and map had already
16 been exhaustively explained by him and that the Japanese
17 side could not change its view, in view of which he
18 would not reiterate. But he did want to say a few words
19 regarding the creation of boundary commissions for the
20 delimitation of the Soviet-Manchurian boundary. At
21 one time both parties had agreed on setting up
22 similar commissions. The goal in mind was the delimi-
23 tation of the boundary on the basis of the data of
24 both parties. At the time the delimitation of the
25 boundary was not conceived of /as based/ only on data

1 of the Soviets. If the Soviets thought of delimiting
2 the boundary with the aid of only their own data and
3 maps there would be no necessity at all to discuss the
4 creation of boundary commissions. Once the Soviets
5 agreed to the creation of boundary commissions, it is
6 not likely that they thought of carrying out the deli-
7 mitation of the boundary on the basis of their own
8 data alone. Further he would like to say in con-
9 nection with my remark regarding the restoration of the
10 status quo: It is impossible not to approve this idea.
11 But at the same time one must point out that the inci-
12 dent began as a result of the occupation of Changkufeng
13 by Soviet forces on 11 July. For this reason the
14 proposal regarding the withdrawal of troops first by
15 the Japanese is one-sided and without foundation. He,
16 SHIGEMITSU, would report to Tokyo on our conversation
17 today and thought this would complete his report and
18 his remarks on various matters, not wishing to take
19 any more of my time.
20

21 "I told SHIGEMITSU that to avoid misunderstand-
22 ings I requested him to transmit our conversation to
23 Tokyo accurately. I also stressed that by restoration
24 of the status quo I had in mind the status existing
25 prior to 29 July, i.e., the date when Japanese troops
crossed the boundary and began to occupy the heights

1 /named/ Bezymiannaya and Zaozernaya. As for boundary
2 commissions we always started with the assumption that
3 existing treaties and maps constituted the basis for
4 the work of the commission. It was not a matter of
5 determining the boundary, but of demarcation and
6 redemarcation. Even now we do not reject those pro-
7 posals which we made earlier regarding the demarcation
8 of the boundary where it is necessary. But existing
9 Russian treaties and maps, among them the Hunchun
10 Agreement, must be recognized as the basis of the
11 labors of the commission. My proposal amounts to the
12 Japanese Government recalling its troops if they are
13 still on Zaozernaya Heights and in other places and
14 to the Japanese Government giving an order to cease
15 further attacks and firing on our territory. Then
16 military operations will stop on both sides. If the
17 Japanese Government declares that it recognizes the
18 Hunchun Agreement, we will not object to demarcation
19 or redemarcation even of the region in question by a
20 mixed commission on the terms which we previously
21 proposed. Under no circumstances, however, will we
22 agree to replace the Hunchun Agreement with another.
23 We consider the boundary fixed. One can only demar-
24 cate it or redemarcate it.
25

"SHIGEMITSU said that the view of the Japanese

1 on the matters touched upon he had already explained.
2 He would therefore not repeat himself and would report
3 to Tokyo his conversation with me. SHIGEMITSU further
4 expressed a wish for the speedy regulation of the
5 incident.

6 "I said that would be fine, but so long as
7 the Japanese did not withdraw their troops beyond the
8 line marked on the map we should reserve our freedom
9 of action."

10 I offer in evidence defense document No. 1550.
11 This is a telegram from Kirk, the American charge
12 d'affaires, to the Secretary of State in Washington,
13 dated August 5, 1938, in which he reports an interview
14 he had and the viewpoint of Soviet military men.
15 It is offered to prove that the foreign commissar
16 knew that Japan did not desire war and that military
17 men in the Soviet confirmed that opinion.

18 THE PRESIDENT; General Vasiliev.

19 GENERAL VASILIEV: Your Honor, we object to
20 this document. In this case we are confronted with
21 an opinion of a third party concerning the Lake Khasan
22 events. This is an opinion based on conversations
23 with various persons, one of whom is mentioned by his
24 name, but the names of the others are not given, and
25 they are referred to under a common, impersonal title,

1 "military circles." Such a document cannot be con-
2 sidered as having probative value.

3 The conversation with the person indicated in
4 the telegram is retold in an extremely brief form, and
5 leaving alone the question of whether this conversa-
6 tion took place for the time being -- I had no grounds
7 for doubts in this respect -- the brevity of the
8 statement can lead to distorted interpretations.
9 When the contents of such conversation on serious
10 political matters is rendered in a few sentences, then
11 one can unmistakably say that it is not a reproduction
12 of the contents of the conversation, but a report
13 concerning the kind of conclusions arrived at as the
14 result of this conversation by the person making the
15 report, and conclusions of different persons are
16 immaterial for this Tribunal. It would be risky to
17 accept such conclusions. Therefore, I ask to reject
18 this document.

19 THE PRESIDENT: Major Furness.

20 MR. FURNESS: If the Tribunal please, this is
21 obviously a report by the American charge d'affaires
22 of an interview that he, himself, had with Litvinov,
23 a report by the Foreign Minister, the highest officer
24 in charge of foreign affairs of a government which is
25 now accusing the accused here of having planned

1 aggressive war. It is a statement by that official
2 that he knew that Japan did not desire war. Certainly
3 the fact that it is brief is no grounds for its
4 exclusion. It reports directly a statement by the
5 Foreign Minister of the Soviet Union on the matter
6 here in issue.

7 Innumerable telegrams against these accused
8 of this type have been received. Certainly this tele-
9 gram from one of the prosecuting -- from a representa-
10 tive of one of the prosecuting nations, should be
11 received. I submit that it has great probative value,
12 and that to exclude it would be an error on the part
13 of the Court, and I submit that it is admissible under
14 the terms of the Charter and under any rules of
15 evidence. It states directly what Litvinov said to
16 Kirk and what Kirk learned on investigation with
17 Soviet military circles, the only way that he could
18 report it, and he is reporting it.

19 THE PRESIDENT: Are you pressing the second
20 paragraph?

21 MR. FURNESS: Yes, I am, sir.

22 GENERAL VASILIEV: I continue to ask the
23 Tribunal not to admit this document, and I consider
24 the argumentation on the part of the defense counsel
25 to be beyond any courtesies.

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25 to be beyond any courtesies.

1 The official attitude of the Soviet Government
2 was officially expressed in documents submitted to the
3 Tribunal, and there is no need for the interpretation
4 of the third parties as to this attitude of the Soviet
5 Government.

6 MR. FURNESS: This man who made this statement,
7 if your Honor please, is the man who talked at those
8 official conferences for the Soviet Union. Certainly
9 what he thought is important, and what he told third
10 party nations has the greatest probative value.

11 THE PRESIDENT: By a majority, the Tribunal
12 admits the first paragraph. The objection is upheld
13 in part and overruled in part. The document is
14 admitted on the usual terms.

15 MR. FURNESS: I shall read the first paragraph.

16 CLERK OF THE COURT: Defense document 1550
17 will receive exhibit No. 2636.

18 (Whereupon, the document above
19 referred to was marked defense exhibit No.
20 2636, the first paragraph of the document being
21 received in evidence.)

22 MR. FURNESS: I shall read the first paragraph.

23 Telegram from Kirk, the Secretary of State,
24 to the Secretary of State, August 5, 1938.

25 "Referring to my telegram August 5, 10 a.m.,

1 during my interview with Litvinov today he informed
2 me that the Soviet Government 'knew' that Japan did
3 not desire a war with the Soviet Union and that the
4 Soviet Government had no intention of receding from
5 its position which it felt was right. He added that
6 such controversies would continue as long as the
7 Fascist nations existed unless combined action could be
8 taken against them and that the only manner of dealing
9 with those nations was to meet force or threat of
10 force with the same weapons."

11 THE PRESIDENT: We will adjourn now until
12 half-past nine tomorrow morning.

13 (Whereupon, at 1600, an adjournment
14 was taken until Friday, 23 May 1947, at 0930.)
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